



March 13, 2007

ENGROSSED HOUSE BILL No. 1192

DIGEST OF HB 1192 (Updated March 12, 2007 10:56 am - DI 52)

Citations Affected: IC 13-23; noncode.

Synopsis: Underground storage tanks. Requires the department of environmental management (department) to provide notice of a release from, a spill from, or an overfill of an underground storage tank (UST) system to the county health officer of each county in which the release, spill, or overfill occurred. Requires a county health officer that receives notice from the department to: (1) publish notice of the release, spill, or overfill in a newspaper of general circulation in the county health officer's county; and (2) provide any other notice of the release, spill, or overfill the county health officer considers necessary or appropriate. With respect to the prohibition against installation of certain USTs before the effective date of certain rules, adds to the criteria for exception from the prohibition the requirement that all newly installed or replaced piping connected to the tank meets the secondary containment requirements adopted by the solid waste management board. With respect to USTs that contain alcohol blended fuels composed of greater than 15% alcohol: (1) excepts the USTs from that prohibition if they meet certain standards; and (2) provides that the USTs are subject to certain release response and detection requirements. Adds effective date provisions. Adjusts limitations on payments from the excess liability trust fund.

Effective: Upon passage; July 1, 2007.

Ulmer, Hoy, Dvorak

(SENATE SPONSOR — GARD)

January 11, 2007, read first time and referred to Committee on Environmental Affairs.
February 15, 2007, amended, reported — Do Pass.
February 19, 2007, read second time, ordered engrossed. Engrossed.
February 20, 2007, read third time, passed. Yeas 89, nays 5.

SENATE ACTION

February 27, 2007, read first time and referred to Committee on Energy and Environmental Affairs.
March 12, 2007, amended, reported favorably — Do Pass.

EH 1192—LS 6014/DI 52+



C
o
p
y

March 13, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1192

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-23-5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to
3 section 2 of this chapter, **and except as provided in subsection (b)**, an
4 underground storage tank, whether of single or double wall
5 construction, may not be installed before the effective date of the rules
6 adopted under IC 13-23-1-2 for the purpose of storing regulated
7 substances unless:

8 (1) the tank will prevent releases due to corrosion or structural
9 failure for the operational life of the tank;

10 (2) the tank is:

11 (A) cathodically protected against corrosion;

12 (B) constructed of noncorrosive material;

13 (C) steel clad with a noncorrosive material; or

14 (D) designed to prevent the release or threatened release of
15 any stored substance; ~~and~~

16 (3) the material used in the construction or lining of the tank is
17 compatible with the substance to be stored; **and**

EH 1192—LS 6014/DI 52+



C
o
p
y

(4) after July 1, 2007, all newly installed or replaced piping connected to the tank meets the secondary containment requirements adopted by the board.

(b) An underground storage tank system that contains alcohol blended fuels composed of greater than fifteen percent (15%) alcohol is a petroleum UST system (as defined in 329 IAC 9-1-36 as in effect January 1, 2007) and may be installed during the period referred to in subsection (a) if the system is otherwise in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks and ancillary equipment, including dispensing equipment, used in the storing or dispensing of alcohol blended fuels for purposes of:

- (1) IC 13-23-8-3(1)(A); and
- (2) all other provisions of this article.

(c) Owners and operators of underground storage tank systems that store, carry, or dispense alcohol blended fuels composed of greater than fifteen percent (15%) alcohol and that comply with subsection (b) are considered to meet the standards of:

- (1) compatibility under subsection (a)(3); and
- (2) compliance for purposes of:
 - (A) IC 13-23-8-3; and
 - (B) all other provisions of this article.

SECTION 2. IC 13-23-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. For the purposes of section 2 of this chapter, the following amounts shall be used:

- (1) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

- (A) is not in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

- (B) is in compliance on a date required under the requirements described under section 4 of this chapter at the time a release was discovered;

the amount is thirty-five thousand dollars (\$35,000).

- (2) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

- (A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage

C
O
P
Y



tanks before the date the tank is required to be in compliance with the requirements; ~~and~~

(B) is not a double walled underground petroleum storage tank; ~~with and~~

(C) ~~has~~ **has** piping that ~~has~~ **does not have** secondary containment; the amount is thirty thousand dollars (\$30,000).

(3) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) **is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;**

(B) **is not a double walled underground petroleum storage tank; and**

(C) **has piping that has secondary containment; the amount is twenty-five thousand dollars (\$25,000).**

(4) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) **is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;**

(B) **is a double walled underground petroleum storage tank; and**

(C) **has piping that does not have secondary containment; the amount is twenty-five thousand dollars (\$25,000).**

~~(5)~~ **(5) If the underground petroleum storage tank that was involved in the occurrence for which claims are made:**

(A) **is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; ~~and~~**

(B) **is a double walled underground petroleum storage tank; ~~with and~~**

(C) **has** piping that has secondary containment; the amount is ~~twenty-five~~ **twenty** thousand dollars ~~(\$25,000).~~ **(\$20,000).**

SECTION 3. IC 13-23-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

C
o
p
y



JULY 1, 2007]:

Chapter 16. Notice of Release, Spill, or Overfill

Sec. 1. A citation in this chapter to a rule refers to the rule as in effect on January 1, 2007.

Sec. 2. If the department receives a report concerning:

(1) the discovery of released regulated substances at an underground storage tank site or in the surrounding area under 329 IAC 9-4-1(1); or

(2) a spill or overfill under 329 IAC 9-4-4(a);

the department shall, not more than seven (7) days after receiving the report, provide notice of the release, spill, or overfill to the county health officer of each county in which the release, spill, or overfill occurred.

Sec. 3. Not more than seven (7) days after receiving a notice from the department under section 2 of this chapter, a county health officer shall do the following:

(1) Publish notice of the release, spill, or overfill in a newspaper of general circulation in the county health officer's county.

(2) Provide any other notice of the release, spill, or overfill the county health officer considers necessary or appropriate.

Sec. 4. Notice provided by a county health officer under section 3 of this chapter must include:

(1) the same information reported to the department under 329 IAC 9-4-1(1) or 329 IAC 9-4-4(a); and

(2) any other information the county health officer considers necessary or appropriate.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) An underground storage tank system that contains fuel composed of greater than fifteen percent (15%) alcohol is considered to comply with IC 13-23-5-1(b), as added by this act, if either of the following applies:

(1) The system predates the effective date of this act.

(2) The system predates the solid waste management board's adoption after the effective date of this act of any additional rules concerning technical and safety requirements for storing and dispensing alcohol blended fuel.

(b) Replacement tanks or ancillary equipment installed in existing underground storage tank systems storing or dispensing alcohol blended fuels must meet the standards contained in additional rules adopted by the solid waste management board as described in subsection (a)(2) only if the installation occurs after

**C
o
p
y**



1 **the adoption of those rules.**
2 **SECTION 5. An emergency is declared for this act.**

**c
o
p
y**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1192, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 2.

Page 2, line 6, delete "to Property Owners" and insert **"of Release, Spill, or Overfill"**.

Page 2, line 9, delete "This chapter applies to a person required to report:" and insert **"If the department receives a report concerning:"**.

Page 2, line 13, delete "." and insert";".

Page 2, delete lines 14 through 35, begin a new line blocked left and insert:

"the department shall, not more than seven (7) days after receiving the report, provide notice of the release, spill, or overfill to the county health officer of each county in which the release, spill, or overfill occurred.

Sec. 3. Not more than seven (7) days after receiving a notice from the department under section 2 of this chapter, a county health officer shall do the following:

(1) Publish notice of the release, spill, or overfill in a newspaper of general circulation in the county health officer's county.

(2) Provide any other notice of the release, spill, or overfill the county health officer considers necessary or appropriate.

Sec. 4. Notice provided by a county health officer under section 3 of this chapter must include:

(1) the same information reported to the department under 329 IAC 9-4-1(1) or 329 IAC 9-4-4(a); and

(2) any other information the county health officer considers necessary or appropriate."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1192 as introduced.)

DVORAK, Chair

Committee Vote: yeas 9, nays 0.

EH 1192—LS 6014/DI 52+



C
O
P
Y

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1192, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-23-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to section 2 of this chapter, **and except as provided in subsection (b)**, an underground storage tank, whether of single or double wall construction, may not be installed before the effective date of the rules adopted under IC 13-23-1-2 for the purpose of storing regulated substances unless:

- (1) the tank will prevent releases due to corrosion or structural failure for the operational life of the tank;
- (2) the tank is:
 - (A) cathodically protected against corrosion;
 - (B) constructed of noncorrosive material;
 - (C) steel clad with a noncorrosive material; or
 - (D) designed to prevent the release or threatened release of any stored substance; ~~and~~
- (3) the material used in the construction or lining of the tank is compatible with the substance to be stored; **and**
- (4) **after July 1, 2007, all newly installed or replaced piping connected to the tank meets the secondary containment requirements adopted by the board.**

(b) An underground storage tank system that contains alcohol blended fuels composed of greater than fifteen percent (15%) alcohol is a petroleum UST system (as defined in 329 IAC 9-1-36 as in effect January 1, 2007) and may be installed during the period referred to in subsection (a) if the system is otherwise in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks and ancillary equipment, including dispensing equipment, used in the storing or dispensing of alcohol blended fuels for purposes of:

- (1) IC 13-23-8-3(1)(A); and**
- (2) all other provisions of this article.**

(c) Owners and operators of underground storage tank systems that store, carry, or dispense alcohol blended fuels composed of

C
o
p
y



greater than fifteen percent (15%) alcohol and that comply with subsection (b) are considered to meet the standards of:

- (1) compatibility under subsection (a)(3); and
- (2) compliance for purposes of:
 - (A) IC 13-23-8-3; and
 - (B) all other provisions of this article.

SECTION 2. IC 13-23-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. For the purposes of section 2 of this chapter, the following amounts shall be used:

- (1) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

- (A) is not in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

- (B) is in compliance on a date required under the requirements described under section 4 of this chapter at the time a release was discovered;

the amount is thirty-five thousand dollars (\$35,000).

- (2) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

- (A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; ~~and~~

- (B) is not a double walled underground petroleum storage tank; ~~with and~~

- (C) ~~has~~ piping that ~~has~~ **does not have** secondary containment; the amount is thirty thousand dollars (\$30,000).

- (3) ~~If the underground petroleum storage tank that is involved in the occurrence for which claims are made:~~

- (A) ~~is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;~~

- (B) ~~is not a double walled underground petroleum storage tank; and~~

- (C) ~~has piping that has secondary containment;~~ the amount is twenty-five thousand dollars (\$25,000).

C
o
p
y



(4) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment; the amount is twenty-five thousand dollars (\$25,000).

(5) If the underground petroleum storage tank that was involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

(B) is a double walled underground petroleum storage tank; with and

(C) has piping that has secondary containment; the amount is twenty-five thousand dollars (\$25,000). (\$20,000)."

Page 2, after line 12, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE UPON PASSAGE] (a) An underground storage tank system that contains fuel composed of greater than fifteen percent (15%) alcohol is considered to comply with IC 13-23-5-1(b), as added by this act, if either of the following applies:

(1) The system predates the effective date of this act.

(2) The system predates the solid waste management board's adoption after the effective date of this act of any additional rules concerning technical and safety requirements for storing and dispensing alcohol blended fuel.

(b) Replacement tanks or ancillary equipment installed in existing underground storage tank systems storing or dispensing alcohol blended fuels must meet the standards contained in additional rules adopted by the solid waste management board as described in subsection (a)(2) only if the installation occurs after the adoption of those rules.

SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

**C
o
p
y**



and when so amended that said bill do pass.

(Reference is to HB 1192 as printed February 16, 2007.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

**C
o
p
y**

